

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANTHONY COUTINHO-SILVA,  
Plaintiff

v.

MR. RAMIREZ, Food Service  
Director, et al.,

Defendants

No. 3:17cv378

(Judge Munley)

(Magistrate Judge Schwab)

ORDER

AND NOW, to wit, this 21<sup>st</sup> day of August 2018, we have before us for disposition Magistrate Judge Susan E. Schwab's report and recommendation, which proposes granting Defendant Ramirez's motion to dismiss and for summary judgment; dismissing plaintiff's rice claim without prejudice to him refiling that claim in a new case now that he has exhausted administrative remedies; and dismissal of the remainder of plaintiff's claims for failure to state a claim. No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(b) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 64) is **ADOPTED**;
- 2) Defendant Ramirez's motion to dismiss and for summary judgment (Doc. 43) is **GRANTED**;
- 3) Plaintiff's rice claims are **DISMISSED** without prejudice to him refiling such claims properly in a new case now that administrative remedies have been exhausted;

- 4) The remainder of plaintiff's claims are **DISMISSED** for failure to state a claim up on which relief can be granted; and  
5) The Clerk of Court is directed to close this case.

BY THE COURT:



---

JUDGE JAMES M. MUNLEY  
United States District Court